

## **Section 3: Siting and Regulating Major Energy Facilities**

### **I. Background**

The Energy Facility Site Evaluation Council (EFSEC or Council) provides a “one-stop” siting process for major energy facilities in Washington. Applicants for energy facility siting receive all of their necessary state and local environmental permits and other licensing terms and conditions from the Council. Once a facility is sited, the Council has a continuing responsibility to monitor the construction and operation of the facility. EFSEC also ensures that effective and coordinated emergency response plans are in place and satisfactorily tested for the WNP-2 nuclear plant.

EFSEC is a Washington State agency comprised of a citizen chair appointed by the Governor and representatives from nine state agencies including: the Military Department, Departments of Natural Resources, Community Trade and Economic Development, Transportation, Fish and Wildlife, Health, Ecology, Agriculture, and the Washington Utilities and Transportation Commission. When an application to site a facility is submitted, the Council is augmented by representatives from particular counties, cities, or port districts potentially affected by the project. Administrative and staff support for EFSEC is provided by the Department of Community, Trade and Economic Development.

The Council’s responsibilities derive from the Revised Code of Washington (RCW) Chapter 80.50.

### **II. Goals**

EFSEC activities are organized under three goals:

1. Provide an orderly, systematic procedure for applicants, agencies, and other interested parties involved in siting or expanding large energy facilities: thermal electric power plants above 250 megawatts and their associated facilities; large intrastate natural gas and oil pipelines; oil refineries; and underground natural gas storage facilities.
2. Regulate the construction and operation of major energy facilities to ensure compliance with the conditions of the site certification agreement (license) issued for the life of the project.
3. Ensure that effective and coordinated offsite emergency response programs and plans involving state, local and federal agencies are in place and satisfactorily tested for the WNP-2 nuclear power plant on the Hanford Site.

### **III. Benefits**

The Council centralizes the evaluation and oversight of large energy facilities in a single location within state government. The Council considers a number of factors in determining whether a facility should be approved, approved with modifications, or denied. As part of the evaluation and review process, protection of environmental quality, safety of energy facilities, and concern for energy availability are all taken into account by the Council. If a project is approved, EFSEC specifies the conditions of construction and operation; issues permits in lieu of any other individual state or local agency authority; and manages an environmental and safety oversight program of project operations to ensure compliance with certification conditions.

The environmental review process coordinated by the Council provides opportunities for public and governmental agency participation through hearings and the review of the application and environmental documents.

One-stop siting provides certainty to applicants that all siting requirements will be managed through a coordinated process. State and federal environmental review processes can be managed cooperatively to include the development of joint environmental impact statements and conducting combined hearings.

By providing a comprehensive environmental review process for major energy facilities, EFSEC helps ensure that new energy facilities are sited with a minimal effect on the environment.

### **IV. Services**

#### **A. Siting New Projects**

EFSEC serves potential applicants seeking certification of large energy facilities within Washington. The Council's process provides applicants a fair and timely review of energy facility proposals.

The Council also serves state and local agencies and tribal interests. These groups' customary concerns and responsibilities are addressed during reviews and public hearings under the "one-stop shopping" provision of EFSEC's statute. During recent application reviews, representatives from ten counties, five cities, and four port districts have become members of the Council to review applications to site three combustion turbine projects and one intrastate oil pipeline.

In addition, EFSEC interacts with numerous federal agencies regarding facility siting, licensing, compliance monitoring, and nuclear emergency planning.

EFSEC also serves members of the public and organizations that may be especially interested in energy facility decisions. The concerns raised by these groups and individuals must be considered during EFSEC's site evaluation process.

Throughout the siting process there are opportunities — via a rigorous schedule of public hearings and environmental study — for interested parties, including governmental agencies, to participate in the review and provide written or oral information on a proposed project.

## **B. Regulating Certificate Holders**

Current site certification agreements are in force for the five nuclear plants owned and operated by the Washington Public Power Supply System (Supply System) — WNP-2 in operation; WNP-1 and -3 in termination status; and WNP-4 and -5 in stages of decommissioning. In addition, active site certification agreements are currently in place for four combustion turbine projects that have not yet been constructed. Council activity will continue to focus on ensuring compliance with certification conditions at WNP-2 to include: 1) protection of state and federal environmental and public health and safety standards; and 2) maintaining a capability for off site agencies to respond in the event of a radiological accident. The Council administers contracts with state and local agencies totaling approximately \$2.5 million per biennium to meet its goals for environmental and nuclear safety oversight at WNP-2 and the other Supply System project sites.

The Council also maintains oversight authority for site restoration activities at the four Supply System projects that have been terminated. For the Satsop nuclear project site, legislation adopted in 1996 provides for the transfer of portions of the site to local governments for economic development purposes. The Council is working with the county and state agencies and the Supply System to ensure an orderly transfer of responsibilities to local government.

## **V. Results**

The Council has processed extensions of air emission permits for the three combustion turbine natural gas-fired projects which have EFSEC permits: the 838 Megawatt (MW) Northwest Regional Power Facility (NRPF) in Creston; the 438 MW Satsop Combustion Turbine (CT) Project near Elma; and the 450 MW Chehalis Generation Facility in Chehalis.

Council siting activities are currently focused on processing/reviewing the application filed by the Olympic Pipe Line Company for its proposed Cross Cascade Pipeline Project — a 231-mile petroleum products pipeline from Woodinville in King County to Pasco in Franklin County. In May 1998, the Council received sizable amendments to the pipeline application. EFSEC has also completed a state/federal draft Environmental Impact Statement for the proposed pipeline with EFSEC and five federal agencies as cooperating agencies. Adjudicated hearings have been scheduled for the spring of 1999. The Council's review process will have the participation of 14 local government members from counties, cities, and port districts directly affected by the proposed project.

During 1998, the Council undertook to review its rules under Executive Order 97-02. Rules regarding the amendment of Council Site Certification Agreements, termination of agreements, site restoration, and Council enforcement actions are being examined for possible changes or modification.

The Council has initiated discussions aimed at examining the future role of EFSEC and the siting of major energy facilities. Several areas of interest have emerged that merit further examination: relationship between EFSEC and land use consistency determination; involvement of the Governor in the decision making process;

EFSEC staff roles in adjudicative proceedings; better integration of the EFSEC process with provisions of the State Environmental Policy Act; and the role of the energy facility siting function as the electric power industry becomes increasingly competitive.

## **VI. Challenges**

The primary siting challenge currently facing the Council is the processing of the Olympic Cross Cascade Pipeline Project application. The Council anticipates extensive adjudicative proceedings on this project during Fiscal Year 1999 and into the next biennium, with completion of the siting process probably occurring in Fiscal Year 2000.

The Council anticipates one application to site a gas-fired combustion turbine project in fiscal year 1999 and one in fiscal year 2000. With growing competition in the electrical energy arena, and possible deficits of power in the Northwest predicted, EFSEC anticipates additional siting activity in the next four to five years.

The Council's regulatory interests will continue to be directed at ensuring that the WNP-2 nuclear plant is operated safely to ensure protection of the environment and the public health and safety. At the same time, the Council will actively work with the Supply System and local governments to see that restoration and/or transfer requirements are met.

Finally, rapid changes in the electric industry discussed in Section 2 and EFSEC's look at its future may prompt revisiting the scope of EFSEC's jurisdiction and how it examines applications for siting energy facilities. The legislation was enacted in an era where regulated utilities were the sole purchasers of power and were subject to significant regulatory and public oversight on cost control, need for power, and reliability standards. As this structure changes, some argue that there is no longer adequate accountability over decisions to build new transmission or smaller power plants. EFSEC currently has no jurisdiction over the following types of facilities:

- ◆ Non-thermal, i.e., wind or solar, generating facilities;
- ◆ Generating facilities under 250 MW, an increasingly large component of new power plants;
- ◆ New transmission facilities that are not associated with a large-scale generating plant; and
- ◆ Large, above-ground natural gas storage facilities for gas that has not been transported over marine waters.

Whether this implies a need for changes to EFSEC's jurisdiction is a matter that may be up for debate before the Legislature in the future. Another concern that has been expressed about the Council's statute is that the preamble language inappropriately establishes that there is "a pressing need for increased energy facilities" in Washington. It has been the Council's experience that the presumption of need language has led to some unnecessary complications in the siting process that could be avoided by more neutral language.